

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

---

**JOSE PAGAN,**

**Plaintiff,**

**- v -**

**Civ. No. 9:18-CV-1094  
(TJM/DJS)**

**DONALD VENETTOZZI, et al.,**

**Defendants.**

---

**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION and ORDER**

This pro se civil rights action was referred to the Hon. Daniel J. Stewart, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and N.D.N.Y.72.3(c). Judge Stewart reviewed Defendants' Motion to Dismiss the Complaint based on Plaintiff's failure to prosecute the action pursuant to Federal Rules of Civil Procedure 37 and 41. Dkt. No. 47. In his May 7, 2021 Report-Recommendation and Order, Judge Stewart recommends that Defendants' Motion be granted and that Plaintiff's Complaint be dismissed pursuant to Federal Rules of Civil Procedure 37 and 41. See 05/07/21 Rep.-Rec. & Ord., Dkt. No. 49. No objections to the Report-Recommendation and Order have been filed, and the time to do so has expired. Furthermore, after examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

Accordingly, the Court **ACCEPTS** and **ADOPTS** the Report-Recommendation and

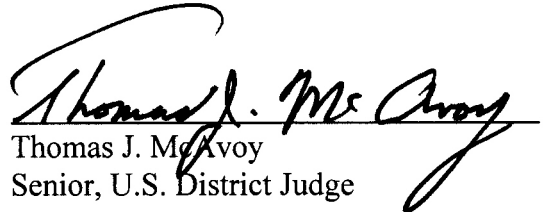
Order (Dkt. No. 49) for the reasons stated therein. It is therefore

**ORDERED** that Defendants' motion to dismiss (Dkt. No. 47) is **GRANTED**, and the Complaint (Dkt. No. 2) is **DISMISSED** pursuant to Federal Rules of Civil Procedure 37 and 41.

The Clerk of the Court may close this file.

**IT IS SO ORDERED.**

Dated: September 1, 2021

  
Thomas J. McAvoy  
Senior, U.S. District Judge